

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF MORAN PARK) APPEAL NO. 07-A-2038
ASSOCIATION from the decision of the Board of) FINAL DECISION
Equalization of Bonner County for tax year 2007.) AND ORDER

VACANT LAND APPEAL

THIS MATTER came on for hearing October 19, 2007, in Sandpoint, Idaho before Board Member Linda S. Pike. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Association Member Thomas Wehrle appeared for Appellant. Assessor Jerry Clemons and Deputy Assessor Lonalee Hooglard appeared for Respondent Bonner County. This appeal is taken from a decision of the Bonner County Board of Equalization (BOE) denying the protest of the valuation for taxing purposes of property described as Parcel No. RPS0267002000CA.

The issue on appeal is the market value of vacant land.

The decision of the Bonner County Board of Equalization is reversed.

FINDINGS OF FACT

The assessed land value is \$176,500. Appellant requests the land value be reduced to \$38,279.

The subject property is an unimproved .26 acre lot on the shore of Lake Pend Oreille. Most of subject is under water. Subject's northerly border is adjacent to a public road, which provides access to the property. While subject has 109 feet of waterfront, Appellant measured the depth between the public road and the waterfront at approximately 14.5 feet. Subject was purchased by 28 owners in the subdivision for \$7,500 in 1992 for the purpose of providing these owners with lake access.

Appellant noted the portion of subject above water was about 1,450 square feet, which was contended to be the size of a modest home. The setback requirements for a septic system,

however, would prohibit construction of a residence. As such, subject was noted by both parties to be unbuildable.

Appellant acknowledged subject is a unique property so noted there were no sales of truly comparable property by which to value subject. Appellant challenged the comparability of the four (4) sales used by Respondent at BOE to support subject's value. It was noted all the sale properties were buildable and most were much larger than subject with more waterfrontage.

Sale 1 was 2.117 acres with 250 front feet and a homesite. The property sold for \$399,000 in May 2005. Sale 2, which sold for \$147,000 in July 2004, was located some distance from subject. The property was 1.5 acres with more than 400 feet of waterfront. Sale 4 was 1.58 acres with 50 feet of waterfront and a residence attached. The property sold in August 2004 for \$375,000.

Appellant contended Sale 3, which sold for \$50,000 was the most similar to subject. The property had 21.28 feet of frontage with a road across the top portion of the lot. It was, however, a buildable lot, so was argued to be dissimilar to subject on this basis.

Appellant also provided a property listing of an unbuildable lot. The lot was .04 acres with 30 feet of waterfront. The property was listed in October 2003 at \$25,000, though did not sell.

Further, Appellant questioned the lot assessments in subject's subdivision. Mentioned was the widely varied land values for improved lots near the water; between \$203,000 and \$997,000.

Respondent explained subject's base assessment rate was \$7,000 per front foot. Subject's value was then adjusted downward 50% for the lack of septic and an additional 50% because subject is unbuildable. At hearing, Respondent acknowledged there was still a "huge problem" with subject's assessment and offered to reduce the value an additional 50% (to

\$88,250) to account for subject's compromised access and usability.

Though not discussed at hearing, Respondent provided seven (7) picnic site sales and five (5) improved property sales. Not much detail was provided except the amount of waterfront each property enjoyed, the sale price, and sale date. No specific comparison to subject was offered .

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

For the purpose of taxation, Idaho Code requires property be assessed at market value as defined in Idaho Code § 63-201(10):

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing sell, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Appellant questioned subject's excessive increase in assessed value from \$38,279 in 2006 to \$176,500 in 2007. Indeed, Respondent acknowledged a “huge problem” with the assessment and offered at hearing to reduce subject's value to \$88,250.

Both parties noted subject is a unique property, so finding sales of similar property was difficult, if not impossible.

Appellant challenged the comparability to subject of the four (4) sales Respondent presented at BOE. It was noted all the properties were buildable. Also, most of the properties

were larger in acreage and enjoyed more waterfront than subject. We agree, the properties did not appear comparable to subject for a number of reasons.

Appellant did testify Sale 3 for \$50,000 was the most similar to subject. It had only 21.28 front feet, however, the lot was buildable.

Respondent submitted a number of picnic site properties, as well as, improved sales. It did not appear these were the same sales presented at BOE and challenged by Appellant in this appeal. Though no specific comparison to subject was attempted, it is difficult to consider the sales submitted at hearing as similar to subject. The improved sales are clearly not like property because subject is an unbuildable lot. The picnic site sales could conceivably be used for comparison to subject, but Respondent did not provide sufficient detail to make such a determination.

Appellant requested subject's value remain at \$39,279; the 2006 assessed value. We are convinced, and both parties agree, subject was over-valued for 2007. The only issue here is determining a reasonable value. Subject's unbuildable status and other detriments severely limit the uses to which the lot can be put, however, it must have some value. Respondent submitted sales, but the properties were not similar to subject and nothing was offered to otherwise support subject's assessed value. No changes have been made to subject since the 2006 assessment. Respondent did not satisfy this Board an increase in assessment was warranted. As such, we will reverse the decision of the Bonner County Board of Equalization and revert subject's value back to its 2006 level; \$39,279.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization concerning the subject parcel be, and the same hereby is,

reversed, lowering the assessed value to \$39,279.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

MAILED April 30, 2008